

CS FOR SENATE BILL NO. 48(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/4/01

Offered: 3/29/01

Sponsor(s): SENATORS WILKEN, Donley, Cowdery, Green, Phillips

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the determination of full and true value of taxable municipal**
2 **property for purposes of calculating funding for education and certain other programs,**
3 **to incorporation of third class boroughs, to incorporation of certain boroughs in the**
4 **unorganized borough and annexation of portions of the unorganized borough to**
5 **boroughs and unified municipalities, and to the formation of separate unorganized**
6 **boroughs; and providing for an effective date."**

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
9 to read:

10 LEGISLATIVE PURPOSE. (a) It is the purpose of the legislature to carry out the
11 directive contained in art. X, sec. 3, Constitution of the State of Alaska, which provides, in
12 part, "The entire State shall be divided into boroughs, organized or unorganized."

13 (b) The unorganized borough is divided into several unorganized boroughs to enable

1 the state to provide critical services on a more carefully controlled regional basis, to facilitate
 2 the gathering of information that reflects regional differences, and to separately track state
 3 expenditures and revenues in each of the unorganized boroughs.

4 (c) Permitting the incorporation of third class boroughs serves the purpose of
 5 encouraging formation of organized boroughs by increasing options for the types of borough
 6 government available to address unique local needs.

7 * **Sec. 2.** AS 14.17.510(a) is amended to read:

8 (a) To determine the amount of required local contribution under
 9 AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the
 10 Department of Community and Economic Development, in consultation with the
 11 assessor for each district in a city or borough, shall determine the full and true value of
 12 the taxable real and personal property in each district in a city or borough. If there is
 13 no local assessor or current local assessment for a city or borough school district, then
 14 the Department of Community and Economic Development shall make the
 15 determination of full and true value from information available. In making the
 16 determination, the Department of Community and Economic Development shall be
 17 guided by AS 29.45.110. **However, the full and true value of taxable real and**
 18 **personal property in any area detached shall be excluded from the determination**
 19 **of the full and true value of the municipality from which the property was**
 20 **detached for the two years immediately preceding the effective date of the**
 21 **detachment. Also, in making the determination for a municipality that is a**
 22 **school district or for a city that is within a borough school district, the assessed**
 23 **value of property taxable under AS 43.56 shall be excluded if a municipal tax is**
 24 **not levied under AS 29.45.080 in that school district.** The determination of full and
 25 true value shall be made by October 1 and sent by certified mail, return receipt
 26 requested, on or before that date to the president of the school board in each city or
 27 borough school district. Duplicate copies shall be sent to the commissioner. The
 28 governing body of a city or borough that is a school district may obtain judicial review
 29 of the determination. The superior court may modify the determination of the
 30 Department of Community and Economic Development only upon a finding of abuse
 31 of discretion or upon a finding that there is no substantial evidence to support the

determination.

* **Sec. 3.** AS 29.05.031(a) is amended to read:

(a) An area that meets the following standards may incorporate as a home rule, first class, [OR] second class, or third class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

* **Sec. 4.** AS 44.33 is amended by adding a new section to article 11 to read:

Sec. 44.33.830. Incorporation or annexation of unorganized areas. (a) In addition to other methods for incorporation and annexation provided by law, an area of the unorganized borough may be incorporated as a first class, second class, or third class borough or annexed to an existing borough or unified municipality under (b) - (f) of this section. AS 44.33.814 - 44.33.828 apply to actions taken by the commission under this section.

(b) The Department of Community and Economic Development shall determine which areas of the unorganized borough reasonably appear to satisfy standards for borough incorporation or for annexation to an existing borough or unified municipality. By November 30 of each year, the department shall present to the Local Boundary Commission a list of those areas that reasonably appear to satisfy standards for borough incorporation or for annexation to an existing borough or

unified municipality, together with the department's analysis supporting its conclusions regarding the incorporation or annexation standards for each of the areas. By November 30 of each year, the commission shall select areas from the list provided by the department that the commission determines may warrant incorporation or annexation. By March 31 of the following year, the department shall prepare a petition for borough incorporation or for annexation of each of the areas selected by the commission. The department shall conduct at least one public meeting in each area for the purpose of gathering information needed to prepare the petition. The department shall provide public notice when the petition has been prepared, make copies of the petition available, and provide any interested person with the opportunity to submit written comments on the petition. After considering the comments, the department may amend the petition. The department shall file the original petition or, if amended, the amended petition with the commission.

(c) Upon receipt of a petition filed under (b) of this section, the Local Boundary Commission shall hold at least one public hearing in or near the area proposed for incorporation or annexation. In addition, the commission shall hold at least one public hearing in each community with at least 200 residents and in each home rule or first class city located in the area. Hearings may be held by teleconference, except that at least two members of the commission must be physically present during each hearing conducted in a community or a city that has at least 200 residents. Following the hearings, the commission may amend the petition and may impose conditions on the incorporation or annexation. If the commission determines that the incorporation or annexation meets applicable standards under the state constitution as well as those established by law and commission regulation and is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition. An incorporation or annexation approved by the commission shall be submitted to the legislature under AS 44.33.828 and takes effect as provided in that section. However, the commission may submit not more than two petitions to the legislature under this subsection each year.

(d) Regulations of the Local Boundary Commission filed under authority of other provisions of law that apply to incorporation and annexation petitions and that

1 deal with the form and content of petitions, public notice of the filing of petitions,
 2 service of petitions, opportunity to file responsive briefs, amendment of petitions,
 3 notice and conduct of hearings, conduct of decisional sessions, and reconsideration
 4 apply to the preparation and consideration of petitions under this section to the extent
 5 they may be applied without conflicting with this section. The Local Boundary
 6 Commission may adopt regulations providing additional standards and procedures for
 7 incorporations or boundary changes under this section and to carry out the purposes of
 8 this section.

9 (e) When a proposal for incorporation of an area under this section becomes
 10 effective, the Local Boundary Commission shall immediately notify the director of
 11 elections. Within 30 days after notification, the director of elections shall order an
 12 election in the area for initial borough officials. The election shall be held under
 13 AS 29.05.120 not less than 30 nor more than 90 days after the date of the election
 14 order. The election order must specify the dates during which nomination petitions for
 15 election of initial officials may be filed. Notwithstanding AS 29.45.670 and
 16 29.45.680, a borough incorporated under this section may levy sales and use taxes in
 17 the manner and at the rates included in the incorporation petition approved by the
 18 commission. AS 29.05.130 - 29.05.150, 29.05.190 - 29.05.210, and AS 29.65.030
 19 apply to boroughs incorporated under this section.

20 (f) When a proposal under this section for annexation of an area in the
 21 unorganized borough becomes effective, the borough or unified municipality to which
 22 the area is annexed shall receive an additional general grant land entitlement equal to
 23 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land
 24 within the boundaries of the area annexed on the date of the annexation. Additional
 25 general grant land entitlements under this subsection are subject to AS 29.65.030 -
 26 29.65.140 to the extent that those provisions can be made applicable. The borough or
 27 unified municipality to which the area is annexed is also entitled to an organization
 28 grant under AS 29.05.190, and, for purposes of applying that section, the effective
 29 date of the annexation shall be treated as though it were the date of incorporation.

30 * **Sec. 5.** AS 29.05.031(b) is repealed.

31 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 FORMATION OF UNORGANIZED BOROUGHES. The Department of Community
3 and Economic Development shall, by November 30, 2001, submit a proposal to the Local
4 Boundary Commission to divide the entire area of the unorganized borough into separate
5 unorganized boroughs, taking into account population, geography, economy, and
6 transportation in each of the proposed unorganized boroughs. The Local Boundary
7 Commission shall submit each proposed unorganized borough it approves to the legislature
8 during the first 10 days of the Second Session of the Twenty-Second Alaska Legislature for
9 consideration under art. X, sec. 12, Constitution of the State of Alaska.

10 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 CONFORMING STATUTORY CHANGES. If separate unorganized boroughs are
13 formed under sec. 6 of this Act, after formation of the unorganized boroughs, the revisor of
14 statutes shall correct the statutes that refer to the single unorganized borough so that they refer
15 to the unorganized boroughs.

16 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).